

# Order

Michigan Supreme Court  
Lansing, Michigan

October 1, 2014

Robert P. Young, Jr.,  
Chief Justice

147981 & (18)

Michael F. Cavanagh  
Stephen J. Markman  
Mary Beth Kelly  
Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 147981  
COA: 317527  
Oakland CC: 2012-241894-FH

DANIEL HORACEK,  
Defendant-Appellant.

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By order of March 28, 2014, the prosecuting attorney was directed to answer the application for leave to appeal the September 12, 2013 order of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals for consideration, as on leave granted, of whether the defendant's warrantless arrest violated his Fourth Amendment rights. If it did, then the Court of Appeals should consider: (1) whether the Oakland Circuit Court and the prosecutor consented, tacitly or otherwise, to entry of the defendant's nolo contendere plea to unarmed robbery, conditioned on the defendant's ability to challenge on appeal the trial court's denial of his motions to suppress the evidence and to quash the bindover, see MCR 6.301(C)(2); (2) whether the defendant is entitled to withdraw his plea pursuant to MCR 6.301(C)(2); and (3) whether the defendant's entitlement to relief is impacted by the prosecutor's statement at the plea hearing that any Fourth Amendment violation would be harmless beyond a reasonable doubt because there was sufficient untainted evidence to prosecute the defendant, see *People v Reid*, 420 Mich 326, 337 (1984). In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 1, 2014

  
Clerk